

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF TENNESSEE**  
**AT KNOXVILLE**

**FREDERICK SWAIN,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE, Commissioner  
of Social Security,**

**Defendant.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**No. 3:08-cv-122  
(Phillips/Shirley)**

**MEMORANDUM OPINION**

On January 5, 2009, the Honorable C. Clifford Shirley, United States Magistrate Judge, entered a Report and Recommendation ("R&R") [Doc. 10] in which he recommended that the Commissioner's Motion to Dismiss [Doc. 7] be granted.

The deadline for timely objections under Rule 72(b)(2) of the Federal Rules of Civil Procedure has passed, with no such objections filed by either party. After a careful review of the record, the court finds itself in complete agreement with Judge Shirley's thorough analysis. Accordingly, the R&R is **ACCEPTED IN WHOLE**, which the court adopts and incorporates into this order, whereby the Commissioner's Motion to Dismiss [Doc. 7] is **GRANTED**.

**IT IS SO ORDERED.**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge